

# Exhibit 4

(Deposition Testimony of Jack Baker)

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1           A.     I believe it was the process department, the  
2     mechanical department, instrumentation and electrical was  
3     a single department, and civil engineering. In fact, I  
4     think that was civil and architectural maybe is what it  
5     was called.

6           Q.     Do you know what the instrumentation and  
7     electrical department was doing?

8           A.     They handled the electrical and instrumentation  
9     responsibilities of projects.

10          Q.     Okay. What does instrumentation mean?

11          A.     Well, the controllers for instance of the -- of  
12     the system, temperature controls, level controls,  
13     pressure controls.

14          Q.     When you started working on the DTT project in  
15     2002 what other process department engineers were on that  
16     project?

17          A.     I can't tell you exactly what order or at what  
18     particular time. Gladys Delgado was and some time either  
19     just before or just after Sam Swamy was on the project,  
20     and I believe that's all I remember.

21          Q.     That's all you can remember in 2002 when you  
22     started?

23          A.     Yes.

24          Q.     Okay. In 2003 when you became the process lead

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1 Q. That's as of November of 2003.

2 A. I was thinking this was the February. I'll agree  
3 to this.

4 Q. Okay. As of February '03 how was this list  
5 different when you became the process lead?

6 A. Gladys Delgado left on maternity leave.

7 Q. So she wasn't there in February '03?

8 A. Well, I believe she was there the first of  
9 February '03, but not at the end. I think sometime in  
10 February she left and went on maternity leave. So to the  
11 best of my recollection when she left they added Andrea  
12 Gerwig, Shea Taylor and Yen Pham.

13 Q. Anybody else?

14 A. No.

15 Q. I don't want to mischaracterize your prior  
16 testimony, but I believe you testified in '02 the only  
17 people working on that project was Gladys, yourself and  
18 another gentleman named --

19 A. Sam Swamy.

20 Q. Is that correct?

21 A. Yes.

22 Q. And then when Gladys went on maternity leave  
23 sometime in February '03, Andrea came on the project,  
24 correct?

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1 A. Yes.

2 Q. Shea Taylor came on the project?

3 A. Yes.

4 Q. And Yen Pham came on the project, correct?

5 A. Yes.

6 Q. Then I'm assuming at some point Chris Guttridge  
7 came on the project?

8 A. Yes.

9 Q. That was July of 2003?

10 A. Yes.

11 Q. Okay. You were there obviously?

12 A. Yes.

13 Q. Process lead?

14 A. Yes.

15 Q. Was there anybody else?

16 A. Not that I remember.

17 Q. Okay.

18 A. May I elaborate on Sam Swamy?

19 Q. Sure.

20 A. At some point in 2002 Sam Swamy was laid off and  
21 Obed Perez then replaced Sam and then at some point after  
22 that Obed Perez left the project in 2002 as far as I  
23 recall.

24 Q. So you are saying Obed Perez worked on the White

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1     Pigments DTT project?

2             A.     Yes.

3             Q.     In 2002?

4             A.     Yes.

5             Q.     Do you know approximately how long he worked on  
6     the project?

7             A.     No, I don't.

8             Q.     But it was less than a year?

9             A.     I believe so.

10            Q.     How do you know he worked on the project? Was he  
11     working side by side with you or he was in meetings with  
12     you relating to the project?

13            A.     As I recall, he was sitting next to me.

14            Q.     Meaning as you were working on the assignments?

15            A.     Yes.

16            Q.     For this project were all the process department  
17     engineers in one central location?

18            A.     At that time, yes.

19            Q.     Did you have your own office or -- explain to me  
20     how the location looked.

21            A.     In 2002 I had a cubicle and Sam Swamy had the  
22     cubicle beside me. At some point during the year Sam  
23     Swamy was laid off and Obed Perez moved into that  
24     cubicle. And Gladys Delgado had an office down the hall

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1 a bit, but we were relatively close together.

2 Q. So did Sam Swamy go to work at Allstates?

3 A. No. He was laid off.

4 Q. Was he laid off because of his performance?

5 A. I wasn't told, but I imagine so.

6 Q. Why do you say that?

7 A. Because there was still work to do.

8 Q. Do you believe he was terminated?

9 A. Yes.

10 Q. But he never came back to work for any BE&K  
11 subsidiary companies?

12 A. No.

13 Q. Okay. He was not let go because of lack of work?

14 A. That's right.

15 Q. At the time he was laid off was he solely working  
16 on the DTT project?

17 A. To the best of my knowledge, yes.

18 Q. Do you know who made the decision to remove him  
19 from the company?

20 A. I haven't been told officially, but I have been  
21 told that people think it was Pete Hall who decided that.

22 Q. Do you know why he was terminated?

23 A. No. It could have been that Dan Dayton wasn't  
24 happy with his performance.

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1 Q. Do you know if Dan Dayton was not happy with his  
2 performance?

3 A. No.

4 Q. All right. You wouldn't know that because you  
5 weren't a manager at the time. Is that correct?

6 A. That's right.

7 Q. But were there times you had to interact with Dan  
8 Dayton for that project?

9 A. Yes.

10 Q. Tell me about that type of interaction in 2002.

11 A. We would meet with Dan Dayton once a week and at  
12 the time Sam would meet with him and then I would meet  
13 with him separately. We would not meet together. We  
14 would one at a time speak to him. And he would review  
15 our calculations and review your calculations and reports  
16 and comment on them.

17 Q. Meaning give you feedback?

18 A. Yes.

19 Q. Was that the first time you ever worked with Dan  
20 Dayton on one of his projects?

21 A. Some time earlier I worked on some calculations  
22 for Dan Dayton before 2002.

23 Q. Okay. Those calculations were with respect to  
24 one project?

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1 process department engineers working on the DTT  
2 project --

3 A. Yes.

4 Q. -- to discuss how they were doing on the project?

5 A. Yes. We would present a quick status of things  
6 that we needed to present and bring up questions that we  
7 needed to bring up. And sometimes it would be something  
8 we didn't understand and he could explain. Other times  
9 we would say that we needed information and we wanted him  
10 to know that we were needing the information from the  
11 plant or a DuPont specialist.

12 Q. Do you know when these weekly meetings started?

13 A. No. They had been going on to some degree the  
14 whole time I was on the project. And sort of the time  
15 when Gladys and Pete Hall left the project and Pete Howe  
16 and I took over that part of the project, that's when  
17 everybody attended at one time. Before that it was, I  
18 would go in and leave, and Sam Swamy would go in and  
19 leave, and other people on other projects Dan was working  
20 on would go in and leave.

21 Q. So when Delgado was process lead in 2002, they  
22 would have these meetings, but each process department  
23 engineer would just come in during the meeting, talk  
24 about their part of the project and then leave?



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1           A.     I must have been told by somebody that Dan Dayton  
2     didn't want him back. When he left the job it was my  
3     impression he was going on to some other project just  
4     because he was needed on some other project. So I had no  
5     reason to believe that he was not satisfactory on the  
6     project. But some time after that I got the impression  
7     that he was never going back on the project.

8           Q.     You don't know where that information came from?

9           A.     That's right.

10          Q.     What was the name of the gentleman that Mr. Perez  
11     replaced in 2002 again?

12          A.     Sam Swamy.

13          Q.     How did you know that Sam Swamy's performance was  
14     not good on that project after he completed it and not  
15     Mr. Perez?

16          A.     Just other people's opinions I believe, because I  
17     remember when he left I was surprised the cubicle was  
18     just empty and I heard that he got laid off. And I  
19     mentioned to Pete Hall, I said, wow, I heard Sam Swamy  
20     was laid off. I said, that's a real shocker to me. He  
21     said yes. And then later somebody, who may or may not  
22     have known what he was talking about, said that Pete Hall  
23     was instrumental in that. And I'm sure Pete wouldn't  
24     have done it, you know, had not Dan asked for it, you